

PROFESSIONAL LICENSURE DIVISION[645]

Notice of Intended Action

Proposing rule making related to licensure, criminal convictions, and wallet cards and providing an opportunity for public comment

The Board of Respiratory Care and Polysomnography hereby proposes to amend Chapter 261, “Licensure of Respiratory Care Practitioners, Polysomnographic Technologists, and Respiratory Care and Polysomnography Practitioners,” and Chapter 263, “Discipline for Respiratory Care Practitioners and Polysomnographic Technologists,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 148G.5 and 152B.6 and 2020 Iowa Acts, House File 2627.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.10, 148G.5 and 152B.6 and 2020 Iowa Acts, House File 2627.

Purpose and Summary

The proposed amendments implement the provisions of 2020 Iowa Acts, House File 2627, by (1) updating the Board’s licensure rules to include references to two rules in the new 645—Chapter 19 (ARC 5367C, IAB 12/30/20), which implements new Iowa Code sections 272C.12 and 272C.13, and (2) updating the Board’s rules regarding criminal convictions as grounds for discipline. The proposed amendments also remove references to wallet cards.

Fiscal Impact

This rule making has minimal fiscal impact to the State of Iowa. Licensees would no longer need to pay to receive duplicate wallet cards and instead would be able to print their own renewal verification if needed.

Jobs Impact

After analysis and review of this rule making, there is a potential positive impact on jobs because individuals who may have been ineligible for licensure may be eligible for licensure as a result of this rule making.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Board for a waiver of the discretionary provisions, if any, pursuant to 645—Chapter 18.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on March 16, 2021. Comments should be directed to:

Tony Alden
Professional Licensure Division
Iowa Department of Public Health
Lucas State Office Building
321 East 12th Street
Des Moines, Iowa 50319
Phone: 515.281.4401
Fax: 515.281.3121
Email: tony.alden@idph.iowa.gov

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 16, 2021
9 to 10 a.m.

Via Webex:
idph.webex.com/idph/j.php?MTID=m3c42c40bcc17792e9c1cdbaa6408ed2b
Password: GAhMjEu7*53
Via telephone: 408.418.9388
Access code: 146 783 2932

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making. In an effort to ensure accuracy in memorializing a person's comments, a person may provide written comments in addition to or in lieu of oral comments at the hearing.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Board and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **261.2(1)“a”** as follows:

a. The applicant shall complete a ~~board-approved~~ application packet. ~~Application forms may be obtained from the board's website (idph.iowa.gov/Licensing) or directly from the board office or may be submitted electronically at IBPLicense.iowa.gov. Paper applications shall be sent to Board of Respiratory Care and Polysomnography, Professional Licensure Division, Fifth Floor, Lucas State Office Building, 321 E. 12th Street, Des Moines, Iowa 50319-0075.~~

ITEM 2. Adopt the following **new** subrules 261.4(7) and 261.4(8):

261.4(7) Licensure by proof of work experience. An applicant who has relocated to Iowa from a state that did not require licensure to practice the profession may submit proof of work experience in lieu of educational and training requirements, if eligible, in accordance with rule 645—19.2(272C).

261.4(8) Licensure by verification. A person who is licensed in another jurisdiction but who is unable to satisfy the requirements for licensure by endorsement may apply for licensure by verification, if eligible, in accordance with rule 645—19.1(272C).

ITEM 3. Amend subrule 261.8(6) as follows:

261.8(6) A person licensed to practice as a respiratory care practitioner, polysomnographic technologist, or respiratory care and polysomnography practitioner shall keep the person's license certificate and ~~wallet card~~ renewal displayed in a conspicuous public place at the primary site of practice.

ITEM 4. Amend subrule 261.8(7) as follows:

261.8(7) Late renewal. The license shall become late when the license has not been renewed by the expiration date on the ~~wallet card~~ renewal. The licensee shall be assessed a late fee as specified in rule 645—5.17(147,152B). To renew a late license, the licensee shall complete the renewal requirements and submit the late fee within the grace period.

ITEM 5. Rescind subrule 263.2(11) and adopt the following new subrule in lieu thereof:

263.2(11) Being convicted of an offense that directly relates to the duties and responsibilities of the profession. A conviction includes a guilty plea, including Alford and nolo contendere pleas, or a finding or verdict of guilt, even if the adjudication of guilt is deferred, withheld, or not entered. A copy of the guilty plea or order of conviction constitutes conclusive evidence of conviction. An offense directly relates to the duties and responsibilities of the profession if the actions taken in furtherance of the offense are actions customarily performed within the scope of practice of the profession or the circumstances under which the offense was committed are circumstances customary to the profession.